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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/066,597
Filing Date: February 06, 2002
Appellant(s): WEBB ET AL.

Morton Rosenberg
For Appellant

EXAMINER'S ANSWER

This is in response to the Appeal Brief filed on October 14, 2005 appealing from the Office action mailed January 07, 2005.

(1) Real Party of interest

The statement of the real party of interest contained in the brief is correct.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the Examiner, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

The Instant Application is a Continuation of Parent Application 09/531,412, which was also on appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,112,191	Burke	9-2000
6,243,688	Kalina	6-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke, US Patent 6, 112, 191A in view of Kalina, US Patent, 6, 243, 688.

As per claims 1-33, Burke, discloses an "open" POS network having a spending /saving system consisting of registered subscribers/payors, who tender payments exceeding the balance due or the transaction values during transactions at registered retailers' POS terminals, wherein the differences or excess funds between the received payments and the transaction values or retail prices are calculated or computed by the POS terminals or ECRs and deposited in an internal payor's or consumer's account maintained by merchants or retailers MC, related to the POS terminals, who in turn transfer the excess payments or collected differences to a single clearinghouse computer CCC, for further processing, on behalf of an identified payor or customer who identifies himself via a subscriber card swiped at the POS terminal or entering an account code therein. Further, the system allows each subscriber or SP the ability to make multiple deposits in various cross country locations at related and unrelated merchants' POS terminals, wherein the subscriber or payor can contribute as little as **a penny** in a transaction in 24 hour period. The storing of the differences or excess payments corresponding to the payor into the merchants' system databases or remote terminals can be conducted online or offline. At the completion of a specified period (periodically or weekly or daily) or when a certain threshold amount (like $50.00) is reached, the total off-line transaction file, associated with the identified customer, stored in the merchant terminal internal databases is then batched online from each

individual merchant's local database to the clearinghouse central computer CCC, **which transmits the collected differences or pennies via an EFT system to a PC related to at least one payor's selected provider account or PA, which can be banks, insurance companies, security firms, for deposits or savings and investments** and the payor or the registered or enrolled customer can determine how to use the savings. **Moreover, the PA, such a bank, a security firm or any other investment firm, will manage the subscriber's or SP's account in accordance with the subscriber's instructions**. The POS terminals at the merchants transfer the subscribers' excess payments or the differences or change due to the clearinghouse central computer or CCC in real-time via communication link CS. The subscribers can specify or have full control over the amount of excess payments they want to contribute or deposit into their accounts at one or more PAs, such banks, security firms, insurance companies or other investment entities (See abstract; col. 2: 45 to col. 3: 14; col. 3: 14-30; col. 3: 31-35; col. 3: 49-64; col. 4: 46-62; col. 4: 63 to col. 5: 40; col. 9: 1-15).

Additionally, the subscribers can also access their accounts and withdraw money from deposited funds in real-time to pay for purchases during a transaction at participating merchants or MC if the funds or excess payments were transferred or deposited into a debit/checking or savings accounts at a bank. The MC POS allows the customer to view allocation or deposit information, change amount deposited, etc., via the POS terminal screen or ECR display. The CCC, acting as a clearinghouse, prints out periodic reports for interested parties, including subscribers, as needed. (Col.5: 42-53; col. 7: 52-59; col. 8: 15-23). It is further to be understood that a subscriber will receive periodic reports, such as monthly or quarterly statements, from a bank, insurance company, security firm or any other financial institution or investment firm

where his excess funds or excess payments (or differences between the retail prices and the received payments tendered by the user or customer) were deposited or invested. **Further, the subscribers or investors have unlimited access to information regarding their savings accounts or investment accounts at the banks or investment firms where the excess payments or differences were deposited or invested (col. 8: 63-67).**

In addition, the CCC can execute a pay- out and transfers funds to different PAs involved and updates its databases or data banks accordingly, especially as funds are being received from the network POS terminals and transmitted on a regular basis to different PA accounts or PAs PCs (banks, security firms or insurance companies accounts or PCs- Col. 7: 63 to col. 8: 10). In an another embodiment, a PMS (provider management system) central computer used off-line or online is operable to open and close accounts, including the closing of subscribers' accounts opened at a savings bank or security firms where excess payments or differences were deposited or invested. When a bank account or investment account is closed, the subscriber initiating the closing or liquidating receives a refund in an amount equal to or less than the total amount currently deposited or invested depending upon whether an early closing penalty fee is imposed, as practice in the financial industry (col. 9: 6-9; col. 10: 55-64).

Moreover, the subscribers have full control over the excess payments tendered even when they use checks or credit/debit cards as payment instruments and the amount of excess payments or differences they want to donate, deposit, invest or simply put aside and receive a receipt at the end of each transaction showing the change or the amount donated, deposited or invested (figs. 5A-5B; col. 9: 30-34; col. 10: 63 to col. 10: 5; col. 10: 15-18). For example, a subscriber uses a check or credit/debit card during a shopping trip at a related POS to pay for a

purchase in an amount equal to the exact value of the transaction, as far as the merchant is concerned. Here, a bank or credit/debit card company, handling the draft or the payment in a conventional manner for authorization and subsequent electronic transfer of funds to the retailer's or merchant's account, creates an excess payment called a rounded amount by rounding-up the retail purchase value of the transaction to the highest dollar figure (or round the change in the retail price to the nearest dollar amount). The bank or the credit/debit card company drafts or charges or debits the subscriber's checking or credit/debit card for an amount equal to the highest dollar amount, that is the retail price plus the excess payment or rounded amount or portion, wherein the bank or the credit/debit card company manages and stores the subscriber's excess payments or rounded amounts or differences for subsequent electronic transfers to the subscriber's savings bank, or investment accounts at a mutual funds (predetermined single mutual fund or a mutual fund pre-selected by the customer) or annuities or bonds company or other security firm (fig. 7-9C and 10A; col. 11: 24-46; col. 11: 59-67; col. 12: 7-16; col. 12: 50-59; col. 14: 11-31; col. 14: 62-64; col. 15: 14-25; col. 16: 5-10; col. 15: 44-49). The subscriber, under the rounder system, updates an existing checking account and/or credit/debit card account and provides instructions to the bank related to the checking account and/or the credit/debit card issuer regarding the added rounded amount he wants to contribute during POS transactions (col. 12: 1-16).

In general, Burke discloses a system wherein a SP or customer can register or enroll into the savings program while at a participating merchant's POS during a transaction. First, the SP, before becoming a subscriber, registers with the clearinghouse central computer CCC over a communication link or network. Subsequently, at the POS, the SP or customer will sign-up with

a PA (Bank, investment firm, etc.,), over the communication link or network, where the customer's differences received by the CCC from a plurality of merchants are transferred from the CCC to the PA(s) (using EFT model). Here the communication link can be a LAN, WAN, etc. and the SP or now register customer or subscriber receives a magnetic card or an account number (identification means) that he can use to identify himself at the different POSes and make contributions to his account (col. 4: 11-14; col. 4: 42-52; Col. 10: 25-45; figs 6A-6C).

It is expected that the periodic statement issued to the customer or payor (when the customer accesses his account), by the banks or investment firms, will show among other things the account number, investment vehicle purchased, price paid, the number of shares owned by the customer based on the current market, etc., as known in the art.

Finally, it is clearly understood in the financial industry that a customer or investor can have someone else manage his money on his behalf by providing discretionary authority to a money manager or broker in an individual brokerage firm or other account managed for the specific investor or customer, or the customer or investor can invest in a vehicle such as a mutual fund (predetermined single mutual fund or a mutual fund pre-selected by the customer), a hedge fund or some other collective investment vehicle. To this end, the customer's differences or excess payments invested in investment vehicles, such as mutual funds (predetermined single mutual fund or a mutual fund pre-selected by the customer), are considered to be invested in a collective (merging) investment vehicle created at the mutual fund company and shared by a plurality of customers (collective investment), as implicitly supported by Burke.

As per claims 1, 5, 13, 14, 17, 22, 25 and 30, although Burke teaches registering a customer to participate in the savings program and providing the registered customer with online access to his account through participating merchants' POS terminals linked to the clearinghouse central computer (CCC) and the PA (bank or investment firm) central computer over a communication link or network or WAN (col. 4: 11-14; col. 4: 42-52; Col. 10: 25-45; figs 6A-6C), however, Burke does not expressly disclose providing the customer with online access to his account over the Internet.

However, Kalina discloses a system for providing a computer system 20 of figs. 1-1 and 1-2 for interactive communication between at least one customer (a plurality of customers) and at least one seller or retailer or merchant 26 of fig. 1-1, wherein a customer visit the seller's web site and clicks on an object or interactive indicia or hyperlink representing a manufacturer credit card to link to the manufacturer's site where the customer can apply for the credit card, which allows him to earn credits for purchases made using the credit card at the seller's POS and wherein the earned credits are invested at an investment firm on behalf of the customer (fig. 2; col. 5: 7-26; col. 5: 66 to col. 6: 14). During a transaction via the Internet at the seller's website, a web page displays an icon or interactive indicia, indicative of the manufacturer's credit card or subject credit card or the credit card associated with purchase awards or incentives or credits given to a customer for sponsoring a merchant who accepts the said credit card at said web site or a web page of said at least one seller, thereby encouraging the customer to select and use the subject credit card, as opposed to a typical competitor's credit card, during the current

transaction and receives award credits that will be invested on behalf of the customer (col. 5: 66 to col. 6: 14) and (col. 5: 61 to col. 6: 41).

Finally, enrolling a customer in a system so that the customer can become a registered member having a proper login name and password or any other account number (identifier) before the customer can gain online access to his bank accounts, investment accounts, etc. over the Internet is well established in the industry (no further disclosure is necessary here-"Official Notice").

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure into the Burke's system so as to display at a participating retailer's or seller's website or web page, associated with a POS, over the Internet an interactive indicia or icon, which indicates that the retailer is a participating retailer and wherein upon clicking on the displayed icon a customer can register to participate in the savings program and wherein during purchases made by the customer at the retailer's web site or off-line, the retail prices are rounded to the highest dollar figure and the differences or excess payments are forwarded to the customer's bank account or investment account where they are deposited or invested respectively and wherein the registered customer can access his bank account or investment account, associated with the transferred differences, at the bank or investment firm website over the Internet, thereby rendering the savings program more accessible to millions of customers, during 24 hours a day and seven days a week, who can not only register online independent of their geographical locations, but also make purchases on the Internet in the privacy of their homes while contributing funds to their savings account and/or

investment account and while the retailer's or seller's bottom significantly increases as a result of a greater exposure.

(10) Response to Argument

First, the Appellant has herein presented a lengthy response that starts on pages 33-49 where the Appellant has discussed the prior art of record without expressly pointing out the salient or novel feature of the claimed invention. Further, the Appellant has broadly submitted, with no reference to a specific claim, that none of the systems known in the art, including those of Burke and Kalina (prior art of record), are concerned with or solve the problem of returning into circulation the savings of the customers participating or enrolling in the saving program in an expedited manner. Additionally, the Appellant contends, **starting on page 52, that Burke does not combine the buying power of a plurality of "additional amounts", as recited in at least independent claims, and that the CCC (clearinghouse computer) in Burke (the primary reference) merely manages the "additional amounts" to be further invested (level 4) into individual accounts once reaching a preset threshold and that the CCC (account manager) does not intend to represent an investment product owned and shared by a plurality of payor's (customers) and that the CCC is not an investment product shared by the plurality of customers. In contradiction to the Burke's Patent, continues the Appellant, the merging account, as recited in the present invention, is an investment product that combines the buying powers of the "savings" or "additional amounts" of a plurality of customers (the merging account combines the savings of the payors to be credited into a single investment product) and thus, Burke teaches away from the main principle of the claimed invention since the CCC in Burke separates surplus funds (savings) into individual**

surplus accounts for further individual investments when reaching a preset threshold level. In short, although the Appellant admits that Burke suggests investing the savings of each individual customer into mutual funds, nevertheless, the Appellant argues that Burke does not disclose or render obvious combining the savings of a plurality of individual customers into a single fund (merging account) for investment at an investment entity, which treats the merging account as a single account, and that Burke alone or in combination with Kalina, the secondary reference, does not produce a merging (collective) account different from an individual account and thus, the combination of Burke and Kalina teaches away from the claimed invention (A summary of the Appellant's remarks, considered here, can be seen on page 91 of the Brief).

In reply to the Appellant's remarks, featured in bold here and on page 91, the Examiner completely and respectfully disagrees with the Appellant's findings and hasty conclusion. In general, a great deal of points (specific languages) raised or argued by the Appellant are not specifically claimed in at least the independent claims. **For instance, the claims or at least the independent claims never talk about any preset threshold or recite a process or a system for transferring the customers' differences (change due) from the customers' first accounts or personal accounts to the merging (collective) account without the need for the differences from the first accounts/personal accounts to reach a preset threshold before being transferred.** To this end, although the Examiner reads the claims in light of the specification, nonetheless, the Examiner does not read limitations from the specification into the claimed invention.

In general, and briefly stated, Burke, discloses an "open" POS network having a spending /saving system consisting of registered subscribers/payors (customers), who tender payments exceeding the balance due or the transaction values during transactions at registered retailers' POS terminals, wherein the differences or excess funds between the received payments and the transaction values or retail prices are calculated or computed by the POS terminals or ECRs and deposited in an internal payor's or consumer's account maintained by merchants or retailers MC, related to the POS terminals, who in turn transfer the excess payments or collected differences to a single clearinghouse computer CCC, for further processing, on behalf of an identified payor or customer who identifies himself via a subscriber card swiped at the POS terminal or entering an account code therein. Further, the system allows each subscriber or SP (supporter) the ability to make multiple deposits in various cross country locations at related and unrelated merchants' POS terminals, wherein the subscriber or payor **can contribute as little as a penny in a transaction in 24 hour period.** The storing of the differences or excess payments corresponding to the payor into the merchants' system databases or remote terminals can be conducted online or offline. **At the completion of a specified period (periodically or weekly or daily) or when a certain threshold amount (like $50.00) is reached, the total off-line transaction file, associated with the identified customer, stored in the merchant terminal internal databases is then batched online from each individual merchant's local database to the clearinghouse central computer CCC, which transmits the collected differences or pennies via an EFT system to a PC related to at least one payor's selected provider account or PA, which can be banks, insurance companies, security firms, for deposits or savings and investments** and the payor or the registered or enrolled customer can determine how to use the savings.

Moreover, the PA (investment firm), such a bank, a security firm or any other investment firm, will manage the subscriber's or SP's account in accordance with the subscriber's instructions (the merchants' POS system databases transfers the customer's excess payments stored in a customer's personal account or first account on a daily, weekly basis to a clearinghouse computer (CCC) database file or first account related to the customer where they are being sorted out and finally transferred to a PA or an investment firm (merging account) for investment in mutual fund, insurance, security (collective investment) according to the customer's instructions). The POS terminals at the merchants transfer the subscribers' excess payments or the differences or change due to the clearinghouse central computer or CCC in real-time via communication link CS. The subscribers can specify or have full control over the amount of excess payments they want to contribute or deposit into their accounts at one or more PAs, such banks, security firms, insurance companies or other investment entities (See abstract; col. 2: 45 to col. 3: 14; col. 3: 14-30; col. 3: 31-35; col. 3: 49-64; col. 4: 46-62; col. 4: 63 to col. 5: 40; col. 9: 1-15).

Here, contrary to the Appellant's findings, the CCC (clearinghouse computer) receives from a plurality of POS terminals batches or files containing customers' differences or rounded amounts. Then the CCC does forward the customers' differences or rounded amounts to designed investment firms to be invested in an investment product, such as mutual fund, insurance, securities, etc., after a clearing or sorting process, which sorts, for example, the received batches or files according to the customers' identifiers and the type of vehicle the rounded amounts will be invested into, as would have concluded an ordinary skilled artisan. In other words, the CCC does manage and transmit the bulk of batches containing the rounded

amounts to designed firms where they are being invested in the customers' selected investment vehicles, thereby combining the r buying power of millions of pennies from a plurality of customers to purchase predetermined investment vehicles at designated investment firms (the CCC is not an investment product itself). Here, the clearing or sorting process, performed by the CCC, corresponding to the customers' savings or "additional amounts" is necessary and would have taken place at the investment firm locations if it was not performed prior to forwarding the rounded amounts or differences (customers' savings) to the investment firm sites. The fact that the claimed invention does not specifically recite a clearing or sorting process does not mean that such a process is undesirable or not expected, as would have concluded an ordinary skilled artisan. Additionally,

In response to the Appellant's contention that the present invention does not require an accumulation of the "additional amounts" or differences before they are being transferred to the merging account from a third party in real-time (although not expressly claimed), it appears that the Appellant herein assumes that the present claimed invention or present system is adapted to transfer for each single transaction at a particular POS a customer's savings, even if it is one penny, from the particular POS to the merging account maintained at an investment firm. To this end, it is impossible to transfer in real-time, for each transaction, the customer's savings from the POS to the investment firm because of the network traffic or bottleneck these endless transmissions or communications would have created between the investment firm and the different retailers' POSes, as one skilled in the art would have understood. Technically speaking, an accumulation of the differences or savings, a periodic transmission or a batching of the customer's savings on a daily basis, weekly basis, as practiced in the art or credit card industry,

is expected here. Further, the present claimed invention or more specifically claim 14 talks about "periodic investment". As seen here, and for the foregoing reasons, the present system, to be successfully implemented, requires at least the batching of the differences or excess payments to the investment firm on a periodic (daily, weekly) basis where there are periodically invested in mutual fund, insurance, etc. Contrary to the Appellant's findings, Burke teaches a system wherein at **the completion of a specified period such as weekly or daily or when a certain threshold amount (like $50.00) is reached, the total off-line transaction file, associated with an identified customer's savings or differences stored in a first or personal account of the customer, recorded in the merchant terminal internal databases is then batched online from each individual merchant's local database to the clearinghouse central computer CCC, which sorts them out and then forwards them to an investment firm (PA) for (collective) investment ("into a merging account"). Please notice here that Burke refers to the "threshold amount" or "accumulation of the differences" as an alternative to the periodic batching of the differences to the CCC for investment at the PA according to the customer's instructions.** Moreover, in one embodiment, Burke discloses that the subscribers or customers have full control over the excess payments tendered even when they use checks or credit/debit cards as payment instruments and the amount of excess payments or differences they want to donate, deposit, invest or simply put aside and receive a receipt at the end of each transaction showing the change or the amount donated, deposited or invested (figs. 5A-5B; col. 9: 30-34; col. 10: 63 to col. 10: 5; col. 10: 15-18). For example, a subscriber uses a check or credit/debit card during a shopping trip at a related POS to pay for a purchase in an amount equal to the exact value of the transaction, as far as the merchant is concerned. Here, a bank or

credit/debit card company, handling the draft or the payment in a conventional manner for authorization and subsequent electronic transfer of funds to the retailer's or merchant's account, creates an excess payment called a **rounded amount by rounding-up the retail purchase value of the transaction to the highest dollar figure (or round the change in the retail price to the nearest dollar amount). The bank or the credit/debit card company drafts or charges or debits the subscriber's checking or credit/debit card for an amount equal to the highest dollar amount, that is the retail price plus the excess payment or rounded amount or portion, wherein the bank or the credit/debit card company manages and stores the subscriber's excess payments or rounded amounts or differences for subsequent electronic transfers to the subscriber's savings bank, or investment accounts at a mutual funds (predetermined single mutual fund or a mutual fund pre-selected by the customer) or annuities or bonds company or other security** firm **(fig. 7-9C and 10A; col. 11: 24-46; col. 11: 59-67; col. 12: 7-16; col. 12: 50-59; col. 14: 11-31; col. 14: 62-64; col. 15: 14-25; col. 16: 5-10; col. 15: 44-49).** The subscriber, under the rounder system, updates an existing checking account and/or credit/debit card account and provides instructions to the bank related to the checking account and/or the credit/debit card issuer regarding the added rounded amount he wants to contribute during POS transactions (col. 12: 1-16). **As seen above, contrary to the Appellant's contention, there is no threshold requirement and no periodic batching, per se, before the customers' differences or rounded amounts are forwarded to an investment firm, such as a mutual fund company.**

In addition, contrary to the Appellant's arguments, it is worth noting in the Burke's Patent that when either a batch file, representing a plurality of first accounts or personal accounts

and containing a plurality of **combined** differences (excess payments) from a plurality of payors or registered customers, is transferred, via the CCC or clearinghouse computer, to an investment firm for further investment (into a mutual fund, insurance, securities) or a financial institution, such as a bank, handles the excess payments or (total) combined differences and subsequently transfers them (or a batch file) to an investment firm (merging account) for further investment or to buy one or more investment product, such as a mutual fund, the differences are said to be combined since the funds belong to a plurality of customers.

Second, it is further understood that, at the investment firm, if, for example, ten payors or registered customers choose to invest a portion of their savings or excess payments into a particular mutual fund at a particular PA or investment firm, then the portion of the differences from each customer is merged/combined together and collectively invested or invested together into the mutual fund (collective account or "merging account") commonly selected by the ten registered customers (hence, the phrase "merging account"). In other words, the differences from the ten registered customers are bundled together and invested in a collective account to purchase a mutual fund product and the customers' shares are calculated based on the respective portion of the savings invested. Here, the merging account, as recited in the claimed invention, performs the same function as the **collective account** and it is treated as the same.

Indeed, the above conclusion is well within the level of skills of an ordinary artisan and supported in **the financial industry** and need not be expressly disclosed in the Burke's or Kalina's reference. For instance, it is well documented in the financial industry that a customer or investor can have someone else manage his money on his behalf by providing discretionary

authority to a money manager or broker in an individual brokerage firm or other account managed for the specific investor or customer, or the customer or investor can invest in a vehicle such as a mutual fund (predetermined single mutual fund or a mutual fund pre-selected by the customer), a hedge fund or some other collective investment vehicle. To this end, the customer's differences or excess payments invested in the investment vehicles, such as mutual funds (predetermined single mutual fund or a mutual fund pre-selected by the customer), are considered to be invested in a collective (merging) investment vehicle created at the mutual fund company and shared by a plurality of other customers investing in the same investment vehicle or product (collective investment), as implicitly supported by Burke who discloses investing the customers' differences or savings into a plurality of investment products including mutual fund, insurance, securities and so on.

Additionally, an investment vehicle such as a mutual fund is known in the art as a collective investment. In other words, all investments in a particular mutual fund are collectively invested therein. If the mutual fund is making money or being profitable, then the investors, individually identified by their respective individual or personal accounts, earn interest on their individual investments therein, based on the number of shares they individually own. For example, if the investment company or PA, related to the mutual fund, takes a portion of the money or differences invested therein by the plurality of customers to buy shares in IBM or General Motor (GM), then all the investors or customers individually and collectively have interest or ownership in IBM and GM in accordance with the value of their investments (the number of shares they own). This is well known in the art and practiced in the financial industry for many years. In another example, a great deal of PTO employees invest a portion of

their income, before taxes, into the TSP (Thrift Savings Plan) by purchasing investment products such as IBM stocks, Microsoft Stocks, etc. Contributions or funds from all employees who choose to purchase IBM stocks are bundled or combined and collectively invested, along with government matching funds, into a single collective account (merging account), associated with PTO employees, and used to purchased the IBM stocks and employees' respective shared are calculated based on the percentage of their contribution plus the government matching funds contributed into the TSP (merging account). And since Burke discloses investing the payors' or customers' differences in a mutual fund (insurance, securities…), then Burke implicitly supports the above well known disclosure.

Here, the Appellant is once again reminded that features that are implicitly supported in the art or widely used in the industry need not be disclosed in a reference in order for these features to be supported by the current prior art; in other words, failure of those skilled in the art to contemporaneously recognize function or ingredient of a prior art does not preclude a finding of obviouness or implicit teachings (MPEP 2131.01 (III).

Finally, contrary to Appellant's findings, the Kalina's reference was introduced just to show, inter alia, the step of providing the customer with online access to his account over the **Internet and for its overall teachings, but not for disclosing a merging (collective) account, which is handled under the Burke's Patent**. Further, Burke clearly teaches giving the customer online access, in a LAN or WAN but over the Internet, to his account. Therefore, combining Burke with Kalina is deemed proper and such a combination does not teach away from the claimed invention.

Therefore, the Appellant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Appellant's arguments as herein presented are not plausible and thus, the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

10/16/06

Conferees:

Eric Stamber

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JEAN D. JANVIER
PRIMARY EXAMINER